

REMARKS/ARGUMENTS

The Applicants originally submitted Claims 1-20 in the application. In the present response, the Applicants have amended Claims 1, 8, and 15 solely in response to the pending 35 U.S.C. §112, first paragraph rejection. These claims have been amended consistent with the basis the Examiner indicated the claims were examined as noted in the Office Action. (*See* item 2 on page 2 of the Office Action.) Since these amended claims are consistent with the claims the Examiner has already examined, there is no need for further search. No other claims have been amended, canceled, or added. Accordingly, Claims 1-20 are currently pending in the application.

I. Rejection of Claims 1, 8 and 15 under 35 U.S.C. §112

The Examiner has rejected Claims 1, 8, and 15 under 35 U.S.C. §112, first paragraph, as failing to comply with the enablement requirement. More specifically, the Examiner asserts that the specification does not disclose that "said process removes the domain from consideration" as claimed. Although the Applicants disagree with the Examiner's position, in order to advance prosecution of the present application, the Applicants have, as noted above, amended independent Claims 1, 8, and 15 to remove the limitation of removing a domain from consideration. As such, Claims 1, 8, and 15 now comply, in view of the amendment, with the requirements of 35 U.S.C. §112, first paragraph. Accordingly, the Applicants respectfully request the Examiner withdraw the §112, first paragraph rejection of Claims 1, 8 and 15 and allow issuance thereof.

II. Rejection of Claims 1-20 under 35 U.S.C. §103

The Examiner has rejected Claims 1-20 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,393,486 to Pelavin, *et al.* (hereinafter "Pelavin") and U.S. Patent Application Publication No. 2002/0021675 to Feldmann (hereinafter "Feldmann"). The Applicants respectfully disagree since the cited portions of the cited combination of Pelavin and Feldmann, as applied by the Examiner, do not teach or suggest route disqualification logic configured to disqualify alternative routes to a domain in a network based on indications of reachability to nodes in the domain prior to an alternative route optimization process as recited in pending independent Claims 1, 8, and 15.

At item 6 on the middle of page 4 to the top of page 5 of the Office Action, the Examiner recognizes that Pelavin does not teach or suggest disqualifying to a domain based on indications prior to an alternative route optimization process and states:

...In the same field of endeavor Feldmann disclosed...route disqualification logic...that disqualifies alternative routes...prior to an alternative route convergence process {prior to the final selection of a route}...(paragraph.36)...Feldmann is discloses that the AS (node) learns about destination prefixes via dynamic routing protocols, such as BGP. BGP is a distance vector protocol that constructs paths by successively propagating reachability information...

Thus, the Examiner asserts that Feldmann cures the Pelavin's deficiency of not disqualifying routes prior to an alternative route optimization process because Feldmann teaches that a node (AS) in a network uses the BGP protocol to learn about destination prefixes.

However, as the Examiner points out, the BGP taught in Feldmann is a protocol that constructs paths by successively propagating reachability information. Paragraph [0036] of Feldmann, relied upon by the Examiner states:

...Then, the router executes the BGP decision process to select the best route to each destination prefix....

Assuming *arguendo* that this successively propagating reachability information BGP process does indeed disqualify routes it does NOT do so prior to an alternative route optimization process, since it itself is a route optimization process (a successively propagating process that selects a best route as does the claimed alternative route optimization process).

As such, Feldmann does not teach disqualifying routes prior to an alternative route optimization, but, rather, as part of an alternative route optimization process. Thus, the cited portions of the cited combination of Pelavin and Feldmann, as applied by the Examiner, do not provide a *prima facie* case of obviousness of pending independent Claims 1, 8, and 15 and Claims that depend thereon. Accordingly, the Applicants respectfully request the Examiner to withdraw the §103 rejection of Claims 1-20 and allow issuance thereof.

III. Conclusion

In view of the foregoing amendment and remarks, the Applicants now see all of the Claims currently pending in this application to be in condition for allowance and therefore earnestly solicit a Notice of Allowance for Claims 1-20.

The Applicants request the Examiner to telephone the undersigned agent of record at (972) 480-8800 if such would further or expedite the prosecution of the present application. The Commissioner is hereby authorized to charge any fees, credits or overpayments to Deposit Account 08-2395.

Respectfully submitted,

HITT GAINES, PC

A handwritten signature in black ink, appearing to read "Steven J. Hanke", written in a cursive style.

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